

U.S. Application No.: 10/613,090
Docket No.: 0465-1039P
May 31, 2005
Art Unit: 2653
Page 26 of 30

REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-63 were pending prior to the Office Action. Claims 16-17 and 23 have been canceled through this Reply. Claims 64-74 have been added. Therefore, claims 1-15, 18-22, and 24-74 are pending. Claims 1, 10, 18, 25, 29, 37, 42, 47, 52, 53, and 59 remain independent.

ALLOWABLE SUBJECT MATTER

Applicants appreciate that claims 9, 12, 13, and 18-24 include allowable subject matter. *See Office Action, items 5-7.* It is noted that claims 27-28 depend from claim 24. Thus, claims 27-28 should also include allowable subject matter.

§ 112, 2ND PARAGRAPH REJECTION

Claims 1-28 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. *See Office Action, item 1.* These claims have been amended to overcome the rejection. Applicants respectfully request that the §112, second paragraph rejection be withdrawn.

§102 REJECTION – FUKUSHIMA

Claims 1-8, 10, 11, and 25-63 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Fukushima et al. (USPN 5,237,553). Applicants respectfully traverse.

For a §102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02.* Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Fukushima fails to teach or suggest each and every claimed element. For example, independent claim 1 recites, in part “specifying defective areas based on information on defective areas listed on the Defect Management Area prior to writing real time data, if the data to be written is real time data; generating a write command such that the specified defective areas are not allocated to the real time data to be written as a result of the specifying step; and writing the real time data on the optical recording medium in response to the write command.”

The Examiner relied upon Figures 1-6 to allegedly disclose the features of the invention as claims. Fukushima discloses dividing the optical recording medium into a sequential access zone and a random access zone. *See Figures*

2 and 3. During writing of data, the actions taken are different depending on which zone the data is to be written to.

Fukushima discloses, with reference to Figure 6, that the host computer 12 sends out a WRITE command to the data recording/reproducing apparatus 2. Once the WRITE command is received data recording/reproducing apparatus 2 itself determines the actions to take regarding defective areas. See *column 8, lines 34-44*. In other words, the WRITE command is provide without regard to the defective areas of the optical recording. Indeed, Fukushima is entirely silent regarding whether the generation of the WRITE command takes account of the defective areas.

This is in complete contrast to the feature of specifying defective areas in advance of writing real time data and generating a write command such that the specified defective areas are not allocated to the real time data to be written based on a result of specifying the defective areas. As noted above, Fukushima takes no consideration of the defective areas prior to issuing the WRITE command and certainly takes no consideration of the defective areas in the WRITE command itself.

Independent claims 10, 25, 29, 37, 42, 47, 52, 53, and 59 recite similar features as claim 1. Therefore, claims 10, 25, 29, 37, 42, 47, 52, 53, and 59 are allowable for at least the reasons stated with respect to claim 1. Claims 2-8,

U.S. Application No.: 10/613,090

Docket No.: 0465-1039P

May 31, 2005

Art Unit: 2653

Page 29 of 30

11, 26-28, 30-36, 38-41, 43-46, 48-51, 54-58, and 60-63 depend from the independent claims directly or indirectly. Therefore, these dependent claims are also distinguishable over Fukushima for at least the reasons stated with respect to the independent claims.

Applicants respectfully requests that the rejection based on Fukushima be withdrawn.

NEW CLAIMS

Claims 64-74 have been added. All new claims are distinguishable over the cited reference of record. Applicants request that the new claims be allowed.

CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

U.S. Application No.: 10/613,090

Docket No.: 0465-1039P

May 31, 2005

Art Unit: 2653

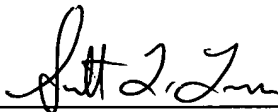
Page 30 of 30


Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicants respectfully petition for a three (3) month extension of time for filing a reply in connection with the present application, and the required fee is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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0465-1039P

Attachment(s)

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